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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,015	04/19/2001	Yuki Tsuchida	KAM 18.602	3722

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EXAMINER

HANNON, THOMAS R

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 07/11/2003

#13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/838,015

Applicant(s)

TSUCHIDA ET AL.

Examiner

Thomas R. Hannon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wiblyi et al..

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Colanzi et al.

Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bugmann.

Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Moorman et al.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiblyi et al., Colanzi et al., and Moorman et al., individually, as applied to claim 1 above, and further in view of Meyer (Germany 4,215,905). Meyer discloses a seal for a bearing subject to high angular or peripheral acceleration forces that is inclined at an angle to the bearing axis. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incline the

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bearing seals of the prior art to accommodate high angular or peripheral acceleration forces, as taught and suggested by Meyer

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugmann as applied to claim 1 above, and further in view of Dreschmann et al. Dreschmann discloses a bearing seal in which a peripheral surface of the inner race is partly defined by a cylindrical surface in parallel to the center axis of the outer race, and the peripheral edges of the seal plate is defined by at least one seal lip that protrudes toward the cylindrical surface, and the at least one seal lip has a tip edge coming in sliding contact all the way around the cylindrical surface, the inner race is formed with shoulder sections between which the rolling bodies are held, and the cylindrical surface on which the tip edge of the seal lip coming in sliding contact is a peripheral surface of the shoulder sections, and the seal lip has a cross-section in a V-shape. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inner sealing arrangement of Bugmann to include a V-shaped lip on a cylindrical shoulder of the inner race, because this is taught and suggested by Dreschmann as providing a seal arrangement of long life.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over ^{Wk}Okuma et al. in view of Wiblyi et al., Colanzi et al., Bugmann, and Moorman et al., individually, as applied to claim 1 above. Ohkuma discloses a transmission as claimed, with the exception of the specific sealed bearing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sealed bearings of Ohkuma to include those taught by the prior art as each of the references teach using the sealed bearings in an environment in adverse conditions.

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Applicant's arguments filed January 29, 2003 have been fully considered but they are not persuasive. Applicant's main argument is that none of the cited references "are directed to an application of a synthetic resin seal for a transmission." With respect to claims 1-6, in response to applicant's argument that the cited seals are not for a transmission, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

With respect to the assertion that the seals of the cited references are not of "synthetic resin, Wiblyi discloses a "plastic or a thermoplastic mixture of polyester elastomers" (Col. 4, lines 41-42"; Colanzi et al. discloses the seal being formed of "plastic resin" (col. 3, line 41); Bugmann discloses a "synthetic resinous annulus" (col. 1, line 60); and Moorman discloses the seal formed of "synthetic materials" (col. 4, line 13). All of which encompass the limitation of a synthetic resin.

Applicant has not argued the 35 U.S.C. 103(a) rejections.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after


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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas R. Hannon whose telephone number is (703) 308-2691. The examiner can normally be reached on Monday-Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.


Thomas R. Hannon
Primary Examiner
Art Unit 3682

trh
July 6, 2003